

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT MCNAIRY,

Defendant.

No. CR10-4083-MWB

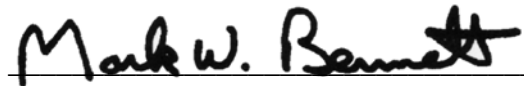
**ORDER**

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This matter comes before the court on the defendant's motion to reduce sentence (docket no. 508). The defendant filed such motion on August 27, 2012. The court previously determined that it could not rely on Amendment 750 (Parts A and C only) to reduce the defendant's sentence under 18 U.S.C. § 3582(c)(2). Nothing the defendant states in his motion leads the court to a different outcome. The defendant's reliance on *Dorsey v. United States*, 567 U.S. \_\_\_, \_\_\_, 132 S. Ct. 2321, 2326 (2012), which held "the new, more lenient mandatory minimum provisions" of the Fair Sentencing Act "apply to offenders who committed a crack cocaine crime before August 3, 2010 but were not sentenced until after August 3", is unavailing because the jury held the defendant responsible for at least 28 grams of crack and he had a prior conviction for a felony drug offense. So, even under the Fair Sentencing Act, the defendant still faces a mandatory minimum of 120 months imprisonment. *See* 21 U.S.C. § 841(b)(1)(B). Accordingly, the defendant's motion to reduce sentence (docket no. 508) is denied.

**IT IS SO ORDERED.**

**DATED** this 9th day of October, 2012.

A handwritten signature in black ink, reading "Mark W. Bennett", written over a horizontal line.

MARK W. BENNETT

U. S. DISTRICT COURT JUDGE

NORTHERN DISTRICT OF IOWA